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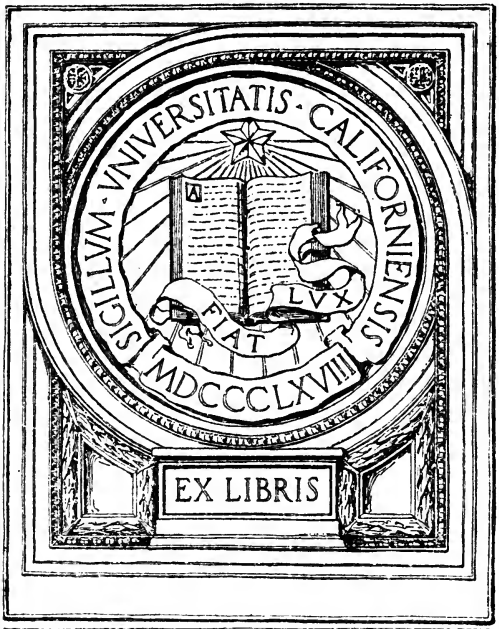
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A HUNDRED YEARS OF AMERICAN DIPLOMACY

A PAPER READ BY

JOHN BASSETT MOORE
OF NEW YORK, NEW YORK

AT

Saratoga Springs, August 30, 1900

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A HUNDRED YEARS OF AMERICAN DIPLOMACY.

Somewhat less than a century and a quarter ago the representatives of the United States of America, assembled in General Congress at the city of Philadelphia, declared that the thirteen United Colonies possessed, as free and independent States, "full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which Independent States may of right do." The period that has since elapsed, measured by the general duration of national life, is comparatively brief; but its importance is not to be estimated by length of years. The United States came into being, as an independent nation, on the eve of great mutations in the world's political and moral order. The principles on which the government was founded were indeed not new; they had been proclaimed by philosophers in other times and in other lands; but they found here a congenial and unpreoccupied soil and an opportunity to grow. The theories of philosophers became in America the practice of statesmen. The rights of man became the rights of men. But the new nation, though conceived in liberty and dedicated to freedom, was practical in its aims and judicious in its methods. It also recognized the right to life, liberty and the pursuit of happiness as belonging to men not only as individuals, but also in their aggregate political capacity as independent nations. Adopting therefore as its rule non-intervention, it declined the proposal of the revolutionary government in France, in 1793, for "a national agreement, in which two great peoples shall suspend their commercial and political interests, and establish a mutual understanding to defend the empire of liberty,

wherever it can be embraced."[1] Abstaining from active political propagandism, and acknowledging the right of other nations to work out their destiny in their own way, but confident of the beneficence and ultimate triumph of its own principles, it escaped the turmoils as well as the reactions that come of excessive and unregulated zeal, and, by the example of order and prosperity at home and the pursuit of an enlightened and consistent policy abroad, continued to uphold the cause of free government, free commerce and free seas. And it is in the maintenance of this great cause, in its various phases, that the United States has made its distinctive contribution to diplomacy.

Although we are particularly concerned on the present occasion with the achievements of the century now drawing to a close, it will be necessary, in order to avoid an abrupt and misleading breach in the actual continuity of events, to recur at times to the acts of the great men who endowed our government with its original form and purpose. At the very outset they looked abroad with a view to enter into relations with other governments. Four months before the Declaration of Independence, an agent was sent to France by the Continental Congress with suitable instructions, perhaps not the least onerous of which was the injunction to acquire "Parisian French."[2] Six months later the Congress adopted a plan of a treaty.[3] Comprehensive in scope and far-reaching in its aims, this remarkable state paper stands as a monument to the broad and sagacious views of the men who framed it and gave it their sanction. Many of its provisions have found their way, often in identical terms, into the subsequent treaties of the United States; while, in its proposals for the abolition of

[1] Am. State Papers, For. Rel. I. 703.

[2] The agent was Silas Deane. His instructions, bearing date March 3, 1776, were signed by B. Franklin, Benj. Harrison, John Dickinson, Robert Morris and John Jay, of the Committee of Secret Correspondence. The objects of his mission were to obtain military supplies and to prepare the way, in case independence should be declared, for the conclusion of a treaty. (Dip. Cor. Am. Rev., Wharton's edition, II. 78.)

[3] Secret Journals of Congress, II. 6, 7-25.

discriminating duties that favored the native in matters of commerce and navigation, it levelled a blow at the exclusive system then prevailing, and anticipated by forty years the first successful effort to incorporate into a treaty the principle of equality and freedom, on which those proposals were based.[1]

Prior to 1789, the United States entered into fourteen treaties. Six of the fourteen were with France, but a majority of all were negotiated and signed in that country, at Paris or at Versailles. Eight were subscribed, on the part of the United States, by two or more plenipotentiaries; and among their names we find, either alone or in association, that of Franklin, ten times; the name of Adams, seven times; the name of Jefferson, three times; and that of Jay, who shared with Adams and Franklin the burden of the peace negotiations with Great Britain, twice. These early treaties covered a wide range of subjects, embracing not only war and peace, but also political alliance, pecuniary loans, commercial intercourse, and the rights of consuls.[2] Among their various stipulations, we may find provisions for liberty of conscience,[3] for the abolition of the *droit d'aubaine* and *droit détraction*, and for the removal, generally, of the disability of the alien to dispose of

[1] See Notes upon the Foreign Treaties of the United States, by J. C. Bancroft Davis, Treaty Volume, 1776–1887, pp. 1219–1220; and the treaty of commerce and navigation with Great Britain, concluded Dec. 22, 1815.

[2] The treaties and conventions prior to 1789, grouped under the countries with which they were concluded, were: France: Amity and Commerce, February 6, 1778; Alliance, February 6, 1778; Separate and Secret Act reserving to the King of Spain the right to accede to the Alliance, February 6, 1778; Contract for the Payment of Loans, July 16, 1782; Contract for a New Loan and the Payment of Old Ones, February 25, 1783; Consular Convention, November 14, 1788. Great Britain: Provisional Articles of Peace, November 30, 1782; Armistice, January 20, 1783; Definitive Treaty of Peace, September 3, 1783. Morocco, Peace and Friendship, January 1787. The Netherlands: Amity and Commerce, October 8, 1782; Convention Concerning Recaptures, October 8, 1782. Prussia, Amity and Commerce, September 10, 1785. Sweden, Amity and Commerce, April 3, 1783.

[3] Netherlands, 1782, Art. IV.; Prussia, 1785, Art. XI.; Sweden, 1783, Art. V.

his goods and effects, movable or even immovable, by testament, donation or otherwise.[1] In one instance it is agreed that, if differences shall arise in consequence of an infraction of the treaty, no appeal shall be made to arms till a friendly arrangement shall have been proposed and rejected.[2] Stipulations for the mitigation of the evils of war are numerous. A fixed time is allowed, in the unfortunate event of hostilities, for the sale or withdrawal of goods;[3] provision is made for the humane treatment of prisoners of war;[4] the exercise of visit and search at sea is regulated and restrained;[5] the acceptance by a citizen of the one country of a privateering commission against the inhabitants of the other or their property, when the two contracting parties are at peace, is made piracy;[6] and not only is contraband carefully defined, sometimes both positively and negatively, so as to limit its scope,[7] but in the treaty with Prussia it is declared that no articles, not even arms and munitions of war, shall "be deemed contraband, so as to induce confiscation or condemnation and a loss of property to individuals," but that, if captured and taken, they shall be paid for at their full value, "according to the current price at the place of destination," while, if they are merely detained, compensation must be made for the loss thereby occasioned.[8] In the same treaty there stood another clause, exempting all merchant and trading vessels from

[1] France, Amity and Commerce, 1778, Art. XI.; Netherlands, 1782, Art. VI.; Prussia, 1785, Art. X.; Sweden, 1783, Art. VI.

[2] Morocco, 1787, Art. XXIV.

[3] France, Amity and Commerce, 1778, Art. XX.; Morocco, 1787, Art. XXIV.; Netherlands, 1782, Art. XVIII.; Prussia, 1785, Art. XXIII.; Sweden, 1783, Art. XXII.

[4] Prussia, 1785, Art. XXIV.

[5] France, Amity and Commerce, 1778, Arts. XIII., XXVII.; Morocco, 1787, Arts. V., XII.; Netherlands, 1782, Art. XI.; Prussia, 1785, Art. XV.; Sweden, 1783, Arts. XIII., XXV.

[6] France, Amity and Commerce, 1778, Art. XXI.; Netherlands, 1782, Art. XIX.; Prussia, 1785, Art. XX.; Sweden, 1783, Art XXIII.

[7] France, Amity and Commerce, 1778, Art. XXIV.; Netherlands, 1782, Art. XXIV.; Sweden, 1783, Arts. IX., X.

[8] Art. XIII.

molestation in time of war.[1] These clauses were far in advance of the international law of the time. They represented an aspiration; but, if intended also as a prophecy, they yet remain for the most part unverified and unfulfilled, though they are by no means discredited.

There is yet another thing for which we are indebted in no small measure to the men who laid the foundations of our system, and that is a certain simplicity and directness in the conduct of negotiations. Observant of the proprieties and courtesies of intercourse, but having, as John Adams once declared, "no notion of cheating anybody," they relied rather upon the strength of their cause, frankly and clearly argued, than upon a subtle diplomacy for the attainment of their ends. Nor did the framework of government subsequently adopted by them admit of the practice of secrecy and reserve, such as characterized the personal diplomacy of monarchs whose tenure was for life, and who were unvexed by popular electorates and representative assemblies. Hence, as it was in the beginning, so American diplomacy has in the main continued to be, a simple, direct and open diplomacy, the example of which has exercised a potent influence on the development of modern methods.

Soon after the organization of permanent government under the Constitution, it became necessary to act upon two questions of foreign policy of more than ordinary importance. The first was that of recognizing the republic proclaimed in France by the National Convention. The position of the United States on this question was defined by Mr. Jefferson, as Secretary of State, in an instruction which has often been cited.[2] "When principles are well understood," said Mr. Jefferson, "their application is less embarrassing. We surely cannot deny to any nation that right whereon our own government is founded, that every one may govern itself according to whatever form

[1] Art. XXIII.

[2] Mr. Jefferson, Sec. of State, to Gouverneur Morris, Minister to France, March 12, 1793, Ford's Writings of Thomas Jefferson, VI. 199.

it pleases, and change these forms at its own will; and that it may transact its business with foreign nations through whatever organ it thinks proper, whether king, convention, assembly, committee, president or anything else it may choose. The will of the nation is the only thing essential to be regarded." In a word, the United States maintained that the true test of a government's title to recognition is not the theoretical legitimacy of its origin, but the mere fact of its existence as the apparent exponent of the popular will. This principle, though it necessarily found little support in Europe in 1793, has proved to be of the highest practical value; for not only has it continued to guide the course of the United States, but it has also become the generally accepted rule of international conduct.

The other great question to which we have adverted was that of the course which the United States should pursue in the first general European war, growing out of the French Revolution. In an early stage of that conflict, the government, after grave deliberation, resolved to preserve a neutral position.[1] With this decision there began the great struggle concerning neutrality, whose concluding chapter may be found only in the Treaty of Washington of 1871 and the arbitration at Geneva. The determination to be neutral involved both the maintenance of rights and the performance of duties; but neither the rights nor the duties of neutrality had ever been clearly and comprehensively defined. While publicists had laid down on the subject, with more or less doubt and hesitation, certain general principles, the practice of governments had been fitful and uncertain, and there existed no recognized standard of neutral obligations. The establishment of such a standard fell to the lot of the United States. Writing on June 5, 1793, to M. Genet, the French minister, who had, on his arrival in the United States, issued commissions to American citizens under which

[1] Washington's neutrality proclamation of April 22, 1793, and its history may be found in Moore, International Arbitrations, IV. 3968; V. 4406 *et seq.* This work will hereafter be cited as "International Arbitrations."

privateers were fitted out to prey on English commerce, Mr. Jefferson, as Secretary of State, declared that it was "the *right* of every nation to prohibit acts of sovereignty from being exercised by any other within its limits, and the *duty* of a neutral nation to prohibit such as would injure one of the warring Powers;" that "the granting military commissions, within the United States, by any other authority than their own," was "an infringement on their sovereignty, and particularly so when granted to their own citizens, to lead them to commit acts contrary to the duties they owe their own country;" and that "the departure of vessels, thus illegally equipped, from the ports of the United States," would be but an act of respect and was required as an evidence of neutrality.[1] Somewhat later Mr. Jefferson informed M. Genet that the President considered the United States "as bound, * * * in conformity to the laws of neutrality, to effectuate the restoration of, or to make compensation for, prizes which shall have been made of any of the parties at war with France subsequent to the 5th day of June last by privateers fitted out of our ports;" that it was consequently expected that he would "cause restitution to be made" of all prizes so taken and brought in subsequent to that day, in defect of which the President would consider it incumbent upon the United States "to indemnify the owners of those prizes, the indemnification to be reimbursed by the French nation;" and that, "besides taking efficacious measures to prevent the future fitting out of privateers in the ports of the United States, they will not give asylum therein to any which shall have been at any time so fitted out, and will cause restitution of all such prizes as shall hereafter be brought within their ports by any of the said privateers."[2] These declarations were amplified in a note to the British minister;[3] and still later, in an instruction to Mr. Morris, then United States minister to France, Mr. Jefferson

[1] Am. State Papers, For. Rel. I. 150; International Arbitrations, I. 312.

[2] Am. State Papers, For. Rel. I. 167; International Arbitrations, I. 313.

[3] Mr. Jefferson to Mr. Hammond, Sept. 7, 1793, Am. State Papers, For. Rel. I. 174; International Arbitrations, I. 314.

further declared "that a neutral nation must, in all things relating to the war, observe an exact impartiality towards the parties; that favors to one to the prejudice of the other would import a fraudulent neutrality, of which no nation would be the dupe; that no succor should be given to either, unless stipulated by treaty, in men, arms, or anything else, directly serving for war; that the raising of troops being one of the rights of sovereignty, and consequently appertaining exclusively to the nation itself, no foreign Power or person can levy men, within its territory, without its consent, * * * ; that if the United States have a right to refuse permission to arm vessels and raise men within their ports and territories, they are bound by the laws of neutrality to exercise that right, and to prohibit such armaments and enlistments."[1] To ensure the enforcement of these views instructions were issued by Alexander Hamilton, then Secretary of the Treasury, to the collectors of customs;[2] and Congress passed the first Neutrality Act, which forbade within the United States the acceptance and exercise by a citizen thereof of a commission, the enlistment of men, the fitting out and arming of vessels, the augmenting or increasing the force of armed vessels, and the setting on foot of military expeditions, in the service of any prince or state with which the United States was at peace.[3] In due season compensation was made to British subjects, in conformity with the principles previously acknowledged, for injuries inflicted by French privateers in violation of American neutrality.[4]

"The policy of the United States in 1793," says one of the greatest of English writers on international law, "constitutes an epoch in the development of the usages of neutrality. There can be no doubt that it was intended and believed to give effect to the obligations then incumbent upon neutrals. But it represented by far the most advanced existing opinions as to what those obligations were; and in some points it even

[1] Am. State Papers, For. Rel. I. 168.

[2] International Arbitrations, IV. 3971.

[3] Act of June 5, 1794. Int. Arbitrations, IV. 3978 *et seq.*

[4] International Arbitrations, I. 343.

went further than authoritative international custom has up to the present day advanced. In the main however it is identical with the standard of conduct which is now adopted by the community of nations."[1] But, upon the foundations thus surely laid, there was yet to be reared a superstructure. The act of 1794, which was to remain in force for only a limited term, was afterwards extended,[2] and was then continued in force indefinitely.[3] An additional act was passed in 1817,[4] but this, together with all prior legislation on the subject, was repealed and superseded by the comprehensive statute of April 20, 1818,[5] the provisions of which are now embodied in the Revised Statutes.[6] An act similar in its prohibitions, though less effective in its administrative powers, was passed by the British parliament in the following year; laws and regulations were from time to time adopted by other governments; and the duties of neutrality became a fixed and determinate part of international law. The supreme test of the system, as the ultimate standard of national obligation and responsibility, was made in the case of the Alabama Claims, and was made successfully. By Article VI. of the treaty between the United States and Great Britain, concluded at Washington, May 8, 1871, for the settlement of those claims, it was agreed that "a neutral government is bound—

"First, to use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war againt a Power with which it is at peace; and also to use like diligence to prevent the departure from its

[1] Hall, Int. Law, 4th ed., p. 616.

[2] Act of March 2, 1797, 1 Stats. at L. 497.

[3] Act of April 24, 1800, 2 Stats. at L. 54.

[4] Act of March 3, 1817, 3 Stats. at L. 370.

[5] 3 Stats. at L. 449.

[6] Revised Statutes of the United States, Title LXVII., Sections 5281–5291. The things forbidden by the act of 1818 are summarized in the neutrality proclamation issued by President Grant, Oct. 8, 1870, with reference to the Franco-German War. (16 Stats. at L. 1132.)

jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

"Secondly, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

"Thirdly, to exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties."

The British plenipotentiaries, by command of their government, declared that they assented to these rules as a means of strengthening friendly relations and of making satisfactory provision for the future, and not as a statement of the principles of international law which were in force at the time when the claims arose. Into this question it is unnecessary now to enter. At the present day the substance of the rules is uncontested.[1]

The struggle of the United States for neutral rights originated in the same great European conflict as the controversy respecting neutral duties. By a decree of the National Convention of May 9, 1793, the commanders of French ships of war and privateers were authorized to seize and bring in merchant vessels which were laden, either wholly or in part, with provisions, bound to an enemy's port, or with merchandise belonging to an enemy. The merchandise of an enemy was declared to be "lawful prize," but provisions, if the property of a neutral, were to be paid for, and an allowance was to be made in either case for freight and for the vessel's detention. This decree, which was defended on the ground of a scarcity of provisions in France, ran counter to the views of the United States concerning the freedom of trade in provisions, and, so far as it affected American vessels, to the stipulation in the treaty between the two countries for the freedom of enemy goods on

[1] Rivier, Principes du Droit des Gens, II. 408; International Arbitrations, I. 670 *et seq.*

neutral ships. The operation of the decree was at one time declared to be suspended as to American vessels, but it was soon reestablished, and subsequently other decrees, yet more injurious, were adopted.[1] Meanwhile, the commanders of British cruisers were authorized to seize and bring in all vessels laden, wholly or in part, with corn, flour or meal, bound either to a port in France or to a port occupied by the French armies, in order that such corn, flour or meal might be purchased for the British government and the vessel released with an allowance for freight, or in order that the master might, on giving due security, be allowed to dispose of his cargo in the port of some country in amity with Great Britain.[2] This order, as in the case of the French decree, was followed by others yet more obnoxious. Against all these measures the United States protested, both by word and by deed. From Great Britain a large pecuniary indemnity was obtained.[3] The controversy with France, which involved many irritating questions, culminated in the state of limited war which prevailed from 1798 to 1800.[4]

The respite which commerce enjoyed from belligerent depredations after the Peace of Amiens was of brief duration, and the renewal of the war was ere long followed by measures which, though not wholly unprefigured, retain in the history of belligerent pretensions an unhappy preeminence. The British government, in 1806, in retaliation for a decree of Prussia excluding British trade, declared the mouths of the Ems, Weser, Elbe, and Trave to be in a state of blockade. Toward the end of the same year Napoleon declared the British Isles to be in a state of blockade, and all commerce and correspondence with them to be prohibited.[5] Great Britain then

[1] International Arbitrations, V. 4412 *et seq.*

[2] Order in Council of June 8, 1793, International Arbitrations, I. 300 *et seq.* The word "corn," in this order, comprehends cereals generally, as wheat, barley, rye and oats, and more especially wheat.

[3] International Arbitrations, I. 341-344.

[4] International Arbitrations, V. 4415 *et seq.*

[5] Berlin Decree, Nov. 21, 1806.

issued an order in council forbidding neutral vessels to trade between ports in the control of France or her allies,[1] and still later another forbidding them to trade, without a clearance obtained in a British port, not only with the ports of France and her allies, but also with any port in Europe from which the British flag was excluded.[2] Napoleon's answer was the Milan Decree,[3] by which it was declared that every vessel that had submitted to search by an English ship, or consented to a voyage to England, or paid any tax to the English government, and every vessel that should sail to or from a port in Great Britain or her possessions, or in any country occupied by British troops, should be deemed good prize. These measures, with their bald assertions of paper blockades and sweeping denials of the rights of neutrality, the United States, as practically the only remaining neutral, met with protests, with embargoes, with non-intercourse, and finally, in the case of Great Britain, which was aggravated by the question of impressment, with war,[4] while from France a considerable indemnity was afterwards obtained by treaty.[5] The pretensions against which the United States contended are no longer justified on legal grounds. It is now universally admitted that a blockade, in order to be valid, must be actually maintained by a force sufficient to render access to the blockaded place dangerous. The right of neutrals to trade with belligerents is acknowledged, subject only to the law of contraband and of blockade. The claim of impressment is no longer asserted.

With the claim of impressment was associated the question of visitation and search. It is conceded that the merchant vessels of a neutral nation may be visited and searched on the high seas in time of war by a belligerent cruiser for the purpose of ascertaining whether they are engaged in violating the laws of war, particularly in relation to contraband and

[1] Order in Council of Jan. 6, 1807.

[2] Order in Council of Nov. 11, 1807.

[3] Dec. 17, 1807.

[4] International Arbitrations, V. 3447 *et seq.*

[5] Treaty of July 4, 1831. See International Arbitrations, V. 4460.

blockade. The United States resisted the perversion of this right to other ends, and denied the existence, apart from treaty, of any right of search in time of peace. · In 1858 the Senate unanimously resolved "that American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country to which they belong, and therefore any visitation, molestation, or detention of such vessels by force, or by the exhibition of force, on the part of a foreign power, is in derogation of the sovereignty of the United States." "After the passage of this resolution," says Mr. Fish, "Great Britain formally recognized the principle thus announced, and other maritime powers, and writers on international law, all assert it."[1]

While maintaining the freedom of the seas, the United States has also contended for the free navigation of the natural channels by which they are connected. On this principle it led in the movement that brought about the abolition of the Danish Sound Dues.[2] An artificial channel necessarily involves special consideration, but, reasoning by analogy, Mr. Clay, as Secretary of State, declared that if a canal to unite the Atlantic and Pacific oceans should ever be constructed, "the benefits of it ought not to be exclusively appropriated to any one nation, but should be extended to all parts of the globe upon the payment of a just compensation or reasonable tolls." This principle was approved by the Senate in 1835, and by the House of Representatives in 1839, and was incorporated in the Clayton-Bulwer treaty in 1850. It is also embodied in the pending Hay-Pauncefote treaty. It forms the basis of the treaty concluded at Constantinople in 1888, between the leading maritime powers of Europe, in relation to the Suez Canal.

[1] Foreign Relations of the United States, 1874, p. 963. See, also, Wharton's Int. Law Digest, III. 122 *et seq.* Exceptional cases, such as that of piracy, or of strictly necessary and emergent self-defense, it is impossible within the limits of the present paper to discuss.

[2] Int. Law Digest, I. Sec. 29.

Nor should we omit to mention, in connection with the freedom of the seas, the subject of the free navigation of international rivers. This principle, consecrated in the acts of the Congress of Vienna,[1] has been consistently advocated by the United States, and has been embodied in various forms in several of its treaties.[2] Among these may be cited the treaty of 1853 with the Argentine Confederation, conceding "the free navigation of the rivers Parana and Uruguay * * * to the merchant vessels of all nations;" of 1858 with Bolivia, declaring the Amazon and La Plata, with their tributaries, to be, "in accordance with fixed principles of international law, * * * channels opened by nature for the commerce of all nations;" of 1859 with Paraguay, extending to "the merchant flag of the citizens of the United States" the free navigation of the Paraguay and Parana; and of 1871 with Great Britain, declaring the navigation of the rivers St. Lawrence, Yukon, Porcupine and Stikine to be "forever free and open for purposes of commerce" to the citizens of both countries.

While the struggle for neutral rights was in progress, the Spanish colonies in America began one after another to declare their independence. In this movement the United States instinctively felt a deep concern; yet the government, adhering to its policy of non-intervention, pursued a neutral course so long as the contest was confined to the original parties. But in time a new situation arose. In the summer of 1823 the Continential powers of Europe, composing the Holy Alliance, having intervened to restore absolute government in Spain, gave notice to Great Britain of a design to call a congress with a view to concert measures for putting an end to the

[1] International Arbitrations, V. 4851.

[2] "A river that passes through or washes the territory of two or more states must, in respect to its navigable uses, be considered as common to all the nations who inhabit its banks, as a free gift flowing from the bounty of Heaven, intended for all whose lots are cast upon its borders." (Mr. Clay, Sec. of State, to Mr. Gallatin, June 19, 1826, Am. State Papers, For. Rel. V. 763.)

revolutionary governments in Spanish America. At this time Lord Castlereagh, who was favorably disposed to the alliance, had been succeeded in the conduct of the foreign affairs of England by George Canning, who reflected the popular opposition to the policy of the allied powers. The United States, acting upon its principle that independence should be acknowledged when it is established as a fact, had then recognized the Spanish-American governments. Great Britain had not taken this step; but English merchants, like those of the United States, had developed with the countries in question a large trade which their restoration to a colonial condition would, under the exclusive system then in vogue, cut off and destroy. Canning therefore lost no time in sounding Mr. Rush, then United States minister at London, as to the possibility of a joint declaration by the two governments against the intervention of the allies in Spanish America. When this suggestion was reported, President Monroe hastened to take counsel upon it. The opinions of Jefferson and Madison were strongly expressed and altogether favorable. In the cabinet, Mr. Calhoun, who also urged the importance of action, inclined to invest Mr. Rush with discretionary powers. Mr. John Quincy Adams, however, maintained that, as we had acknowledged the independence of the Spanish-American states, joint action could be taken only on that basis, and that the declarations of the two governments should therefore be made separately. This view prevailed. Canning, in fact, without awaiting the decision of the United States, advised the French Ambassador, on the 9th of October, 1823, that while Great Britain would remain "neutral" in any war between Spain and her colonies, the "junction" of any foreign power with Spain against the colonies would be viewed as presenting "entirely a new question," upon which Great Britain "must take such decision" as her interests "might require."[1] The announcement of the United States went further. President Monroe, in his annual message of December 2, 1823, declared that any attempt on the part of

[1] Annual Register, 1824, p. 485.

the allied powers to extend their system to any portion of this hemisphere would be considered as "dangerous to our peace and safety," and that any interposition by any European power in the affairs of the governments whose independence we had acknowledged, for the purpose of oppressing them or controlling in any other manner their destiny, could be viewed in no other light than as "the manifestation of an unfriendly disposition towards the United States." In the same message there was another declaration, made with reference to territorial disputes on the northwest coast, that "the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European powers." These declarations, under the name of the Monroe Doctrine, embody a cardinal principle of American Diplomacy. As a protest against the political intervention of Europe and the extension of European dominion in this hemisphere, they found a ready lodgement in the hearts of the American people; and, thus interpreted and sustained, they still stand, as on memorable occasions they have stood heretofore, as a guarantee of the independence of governments and the freedom of commerce.

Mr. Adams, in his meditations on the question of Spanish America, reasoned thus: "Considering the South Americans as independent nations, they themselves, and no other nation, had the *right* to dispose of their condition; *we* have no right to dispose of them, either alone or in conjunction with other nations; neither have any other nations the right of disposing of them without their consent."[1] This principle, coeval with the American Republic, has also been the guide of our policy in the far East. Early on the scene in China, and the first to enter into treaties with Japan and Korea, the United States has steadfastly sought the preservation of their independence and territorial integrity, not only as a thing just and expedient in itself, but also as the logical foundation of the system of trade equality latterly denoted by the phrase "open door."

[1] Memoirs, VI. 186.

Especially is this true of those populous countries, China and Japan, our interest in which is not lessened by the fact that they have, by our acquisition of the Philippines, become our near neighbors.[1] Japan, coherent and aspiring, has at length been emancipated. China, disorganized and rent by internal disorders, portions of her territory occupied by foreign powers and the rest shadowed by spheres of influence, suggests an uncertain future. The United States lately obtained from the powers an engagement to observe throughout the Empire the principle of commercial equality. Its policy in the grave crisis that has since arisen is expressed in the circular issued by the Secretary of State on the 3rd of July last. After stating the President's purpose to act concurrently with the other powers, in the immediate protection of American interests and the restoration of order, Mr. Hay in that circular declares that as to the future "the policy of the government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire."

In a sketch of American diplomacy during the past hundred years it is necessary to refer to the attitude of the government on certain questions that specially affect the rights of individuals. The Declaration of Independence enumerates, as among the "unalienable rights" with which "all men" are "endowed by their Creator," "life, liberty, and the pursuit of happiness." Whether these comprehended, incidentally, the right of the individual to renounce his allegiance at will, is a question on which opinions differed. The courts of the United States, prior to 1868, accepting the doctrine of the common law,

[1] Our treaty with China of June 18, 1858, provides (Art. I.) that "if any other nation shou'd act unjustly or oppressively, the United States will exert their good offices, on being informed of the case, to bring about an amicable arrangement of the question, thus showing their friendly feelings."

generally sustained the negative;[1] and the utterances of the executive department, even down to 1853, were by no means consistent. Mr. Buchanan, however, as Secretary of State, under the administration of Polk, broadly maintained the affirmative; and Mr. Cass in 1859 asserted that "the moment a foreigner becomes naturalized his allegiance to his native country is severed forever. He experiences a new political birth. * * * Should he return to his native country he returns as an American citizen, and in no other character." Congress in 1868 declared "the right of expatriation" to be "a natural and inherent right of all people, indispensable to the enjoyment of the right of life, liberty and the pursuit of happiness," and pronounced "any declaration, instruction, opinion, order or decision of any officers of this government which denies, restricts, impairs, or questions the right of expatriation," to be "inconsistent with the fundamental principles of this government."[2] Prior to the passage of this act, George Bancroft concluded with the North German Union the first treaty of naturalization.[3] He made similar treaties with Baden,[4] Bavaria,[5] and Hesse.[6] Before the end of 1872, treaties on the same subject were entered into with Austria-Hungary,[7] Belgium,[8] Denmark,[9] Ecuador,[10] Great Britain,[11] Mexico,[12] and Sweden and Norway.[13] No treaty has since been added to the

[1] 2 Kent's Com. 49; Inglis v. The Trustees of the Sailor's Snug Harbour, 3 Pet. 99; Shanks v. Dupont, 3 Pet. 242; The Santissima Trinidad, 7 Wheat. 283; Talbot v. Janson, 3 Dall. 133; Portier v. Le Roy, 1 Yeates (Penn.) 371. *Contra*, Alsberry v. Hawkins, 9 Dana 178.

[2] Act of July 27, 1868, 15 Stats. at L. 223; R. S. Sec. 1999.

[3] February 22, 1868.

[4] July 19, 1868.

[5] May 26, 1868.

[6] August 1, 1868.

[7] Sept. 20, 1870.

[8] November 16, 1870.

[9] July 20, 1872.

[10] May 6, 1872.

[11] May 13, 1870.

[12] July 10, 1868.

[13] May 26, 1869.

list. This fact may be explained not only by an unreadiness on the part of various governments to accept a compliance with the naturalization laws of the United States as a sufficient act of expatriation, but also by the exigencies of military service and the numerous cases in which it has been alleged that the treaties were abused for the purpose of evading military duty.

In the development of the modern process of extradition, the credit of the initiative belongs to France. But, beginning with the Webster-Ashburton treaty, the United States, at an important stage in the history of the system, actively contributed to its growth by the conclusion of numerous conventions.[1] We cannot afford, however, to rest on our laurels. In recent times other nations, and particularly Great Britain since 1870, observing the propensity of criminals to utilize improved facilities of travel, have, by legislation as well as negotiation, vastly increased the efficiency of the system. It will therefore be necessary, if we would fulfill the promise of our past and retain a place in the front rank, steadily to multiply our treaties and enlarge their scope. No innovation in the practice of nations has ever more completely discredited the direful predictions of its adversaries than that of surrendering fugitives from justice.

The United States, acknowledging the force and supremacy of law, has given the weight of its example to the employment of arbitration as a means of settling international disputes not only as to the rights of individuals but also as to the rights of nations. If asked for a proof of this statement, we may point to the fifty-three executed arbitral agreements to which,

[1] Art. XXVII. of the treaty with Great Britain of 1794, commonly called the Jay treaty, required the surrender of fugitives charged with murder or forgery, but it was for the most part ineffective and expired by limitation in 1808. The Webster-Ashburton treaty, signed Aug. 9, 1842, provided (Art. X.) for extradition for any of seven offences. Treaties with other countries were soon afterwards made, ten being concluded while William L. Marcy was Secretary of State, during the administration of Pierce.

during the past hundred years, the United States has been a party; to the twelve cases in which the President, or some one appointed or approved by him, has acted as arbitrator or umpire; and to the five pending proceedings in which the government is now directly concerned.[1] In many of these arbitrations questions of national right of the highest moment, sometimes expressed in the terms of the agreement, but often lurking in the general phrases of a claims convention, have been submitted to judgment. The opinion of the world as to the general result is attested by recent efforts to establish a permanent system of arbitration, as proposed in the plan of the International American Conference, in the unratified treaty between the United States and Great Britain, and in the pending agreement lately adopted at the Hague.

We speak of the United States; and in its original design and purpose it still endures, and so may it endure forever! But, in the history of its diplomacy during the past hundred years, there is nothing more striking than the record of the national expansion. First Louisiana,[2] then the Floridas,[3] then Texas,[4] next a half of Oregon,[5] soon afterwards California and New Mexico,[6] and later the Gadsden purchase,[7] it was no mere figment of the poetic fancy that depicted the nation's pioneer as going

"* * * joyful on his way,
To wed Penobscot's waters to San Francisco's bay."

Not only extensive provinces, which had "languished for three centuries under the leaden sway of a stationary system," but also vast regions in whose wild solitudes the voices of nature spoke only to barbarian ears, were rescued from the

[1] See International Arbitrations, 6 vols.; also, the note at the end of this address.

[2] Treaty with France, April 30, 1803.

[3] Treaty with Spain, February 22, 1819.

[4] Joint Resolutions of March 1 and December 29, 1845.

[5] Treaty with Great Britain, June 15, 1846.

[6] Treaty with Mexico, February 2, 1848.

[7] Treaty with Mexico, December 30, 1853.

dominion of misfortune and neglect, and dedicated to liberty and law and progress. And still the national advance continued. Distant Alaska, far reaching in its continental and insular dimensions, was added to the national domain;[1] the Hawaiian Islands, long an object of special protection, were at length annexed;[2] and Cuba, as the events of a century had foreshadowed, was detached from the Spanish crown, while by the same act all other Spanish islands in the West Indies, together with the Philippines and Guam in the Pacific, were ceded to the United States.[3] By a treaty since made, Germany and Great Britain renounce in favor of the United States all their rights of possession or jurisdiction as to Tutuila and certain other islands in Samoa.[4]

The record of the century lies before us. We survey it perhaps with exultation, but we should not forget its graver meaning. With the growth of power and the extension of boundaries, there has come an increase of national responsibilities. The manner in which we shall discharge them will be the test of our virtue. To-day, reviewing the achievements of a hundred years, we pay our tribute to the wisdom, the foresight, the lofty conceptions and generous policies of the men who gave to our diplomacy its first impulse. It remains for us to carry forward, as our predecessors have carried forward, the great work thus begun, so that at the close of another century the cause of free government, free commerce and free seas may still find in the United States a champion.

[1] Treaty with Russia, March 30, 1867.
[2] Joint Resolution, July 7, 1898.
[3] Treaty with Spain, December 10, 1898.
[4] December 2, 1899.

NOTE ON INTERNATIONAL ARBITRATIONS. — The arbitrations of the United States, the dates, unless otherwise stated, being those of the arbitral agreements, are as follows:

Brazil, Whale Ship Canada, 1870.—Chile: Case of the "Macedonian," 1858; claims, 1892; total, 2. — China, the Ashmore Fishery, 1884.—Colombia: Panama Riot and other claims, 1857; same subject, 1864; Montijo case, 1874; total, 3.—Costa Rica, claims, 1860. — Denmark, Carlos Butterfield claims, 1888.—Ecuador: claims, 1862; Santos case, 1893; total, 2.—France, claims, 1880.—Great Britain: St. Croix River, 1794; Islands in Bay of Fundy, 1814; N. E. Boundary, 1814; same subject, 1827; River and Lake boundary, 1814; Lake and Land boundary, 1814; San Juan boundary, 1871; Hudson's Bay Co. claims, 1863; Impediments to Recovery of Debts, 1794; Neutral Rights and Duties, 1794; Compensation for Slaves, 1818; same subject, 1822; same subject, 1822; claims, 1853; Reserved Fisheries, 1854; Alabama claims, 1871; Civil War claims, 1871; Fisheries, 1871; Fur Seals, 1892; Bering Sea Damage claims, 1896; total, 20.—Hayti: Pelletier and Lazare cases, 1884; claims, 1885; Van Bokkelen case, 1888; total, 3.—Mexico: claims, 1839; claims, 1868; Oberlander case, 1897; total, 3.—Nicaragua, claims, 1900.—Paraguay, United States and Paraguay Navigation Co., 1859. — Peru: cases of the Georgianna and Lizzie Thompson, 1862; claims, 1863; claims, 1868; MacCord case, 1898; total, 4.—Portugal: Brig "General Armstrong," 1851; Delagoa Bay Railway, 1891; total, 2.—Salvador, Savage claim, 1864.—San Domingo, Ozama Bridge case, 1897.—Siam: Kellett case, 1897; Cheek case, 1897; total, 2. - Spain: Spoliations, 1795; Case of the "Colonel Lloyd Aspinwall," 1870; Cuban claims, 1871; case of the Masonic, 1880; total, 4. — Venezuela: claims, 1866; claims, 1885; Venezuela Steam Transportation Co., 1892; total, 3.—Grand total, 57, all but 4 since 1800.

The President of the United States has acted as arbitrator in the following cases: Argentine Republic and Brazil, Misiones boundary, 1889; Argentine Republic and Paraguay, Middle Chaco territory, 1876; Colombia and Italy, Cerruti case, 1894; Costa Rica and Nicaragua, boundary, 1886; Great Britain and Portugal, Island of Bulama, 1869.—Total, 5.

Ministers of the United States have acted as arbitrator or umpire in the following cases: Argentine Republic and Chile, boundary, 1896; Chile and Peru, disputed accounts, 1874; Great Britain and Brazil, Dundonald claim, 1873; Great Britain and Colombia, Cotesworth and Powell claim, 1872; Great Britain and Honduras, claims, 1859; Italy and Switzerland, Cravairola boundary, 1873.—Total, 6.

Under the treaty between Costa Rica and Nicaragua of 1896, for the final settlement of their boundary, the President of the United States appointed Gen. E. P. Alexander, a citizen of the United States, as engineer-umpire.

Arbitrations are now pending between the United States and other powers as follows: Chile, claims, 1897; Germany and Great Britain, Samoan claims, 1899; Guatemala, May claim, 1900; Hayti, Metzger case, 1899; Russia, Bering Sea seizures, 1900.—Total, 5.

The treaty between the United States and Mexico of Feb. 2, 1848, contains (Art. xxi) a general clause as to arbitration; and the same principle is exemplified in the treaties relating to the boundary between the two countries. (Int. Arbitrations, II. 1287, 1358.)

Great Britain, besides 20 with the United States and 4 in which the President or a minister of the United States has participated, has had arbitrations with other powers, as follows: Argentine Republic, claims, 1858; closure of port of Montevideo, 1864.—Belgium, Ben Tillett case, 1897.—Brazil, maritime captures, 1829; claims, 1858; case of the "Forte," 1862.—Buenos Ayres, maritime spoliations, 1830.—Chile, claims, 1883; claims, 1893.—Colombia, Punchard & Co. claim, 1896.—France, Portendic claims, 1842; Mineral Oil claims, 1873; Greffühle Concessions, 1893 (award).—Germany, Island of Lamu, 1889.—Greece, claims, 1850.—Hayti, claims, 1890.—Liberia, boundary, 1871.—Mexico, claims, 1866.—Netherlands, case of the Costa Rica Packet, 1895.—Nicaragua, Mosquito Indians, 1881 (award); claims, 1895.—Peru, White claim, 1864 (award).—Portugal, claims, 1840; Croft case, 1856 (award); Yuille and Shortridge claim, 1861 (award); territory on E. coast of Africa, 1872; Delagoa Bay Railway, 1891; Manica boundary, 1895.—South African Republic, boundary, 1884.—Spain, Schooner Mermaid, 1868; marine tort, 1887.—Venezuela, claims, 1868; British Guiana boundary, 1897.—Total, 33.

France, during the past hundred years, has had arbitrations, besides the 4 already mentioned, as follows: Allied Powers, claims, 1814.—Chile, claims, 1882; claims, 1895.—Chile and Peru, guano funds, 1894.—Hayti, claims, 1891 (or 1892).—Mexico, claims, 1839.—Netherlands, interest on the Dutch Debt, 1815; Guiana boundary, 1888.—Nicaragua, case of the Phare, 1879.—Spain, question of prize, 1851.—Venezuela, claims, 1864; Fabiani case, 1891.—Total, 12.

Other arbitrations between various countries may be enumerated as follows: Argentine Republic and Chile, boundary, 1896; Austria and other Powers, as to Duchy of Bovillon, 1815; Austria and other Powers, as to cantons of Tessin and Uri, 1815; Austria-Hungary and Chile, claims, 1885; Belgium and Chile, claims, 1884; Chile and Italy, claims, 1882; Chile and Sweden and Norway, claims, 1895; Chile and Switzerland, claims, 1886; China and Japan, killing of a Japanese in Formosa, 1876 (about); Colombia and Costa Rica, boundary, 1880–1897; Colombia, Ecuador and Peru, boundary, 1894; Colombia and Venezuela, 1881–1886; Khedive of Egypt and M. de Lesseps, accounts, 1864; Egypt and Foreign Powers, claims, 1883; Germany and Chile, claims, 1884; Germany and Hayti, 1895; Hayti and San Domingo, boundary, 1895 (about); Italy and Brazil, claims, 1896; Italy and Persia, customs duties, 1890; Italy and

Portugal, Lavarello case, 1892; Japan and Peru, case of the "Maria Luz," 1873; Mexico and Guatemala, boundary, 1882; Netherlands and Dominican Republic, case of the "Havana Packet," 1881; Netherlands and Venezuela, Aves Islands, 1865 (award); Peru and Bolivia, question of salute to flag, 1895; arbitration between two African tribes as to the use of wells, 1887.—Total, 26.

The whole number of international arbitrations during the present century, exclusive of cases now pending and incomplete, is, according to the above list, 136.

It should be observed that in certain lists that have lately been circulated there have been included as arbitrations not only numerous cases of mediation, but also ordinary boundary surveys, domestic commissions, direct treaty settlements, and even examples of pure diplomatic negotiation, such as the Anglo-American joint commission of 1898–99. Such lists are to be deprecated. While they tend to mislead impulsive and undiscriminating writers, they also invite attack.

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